

This civil rights action under 42 U.S.C. § 1983, filed pro se by Virginia inmate David Meyers, alleged a multitude of claims against more than two dozen prison officials, concerning events at Red Onion State Prison in 2017 and 2018. All claims but one have been previously dismissed. The remaining claim is for injunctive relief, based on his contention that correctional officers Swiney and Stallard were not protecting him from an excessive risk that fellow inmates Thomas and Runren would carry out their threats to rape or kill Meyers in his protective custody cell, given his inability to stand or walk. I also found that Meyers has three “strikes” under 28 U.S.C. § 1915(g), and as such that he is eligible to proceed without prepayment of the filing fee for this case only if he shows that at the time he filed this Complaint, he was in imminent danger of

serious physical harm. Compl. 2. I referred his remaining claim to the magistrate judge for further proceedings on that issue.

United States Magistrate Judge Pamela Meade Sargent conducted an evidentiary hearing on August 16 and 24, 2018. She has issued a Report and Recommendation that summarizes the testimony and other evidence presented to her. The Report recommends a finding that for purposes of the exception in § 1915(g), Meyers has shown that at the time he filed his Complaint, he was in imminent danger of serious physical harm related to his one remaining claim against defendants Swiney and Stallard. The parties were notified of the opportunity to file objections to the Report, and the allotted time for objections has passed with none being filed.

I have reviewed Judge Sargent's Report, and I am satisfied that there is no clear error on the face of the record. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) ("[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'"") (quoting Fed. R. Civ. P. 72 advisory committee's note to 1983 addition). I have also reviewed Meyers' motions objecting to Judge Sargent's evidentiary rulings and his motions seeking to obtain and present

additional evidence on imminent danger. I find his objections to be without merit and see no need for the additional materials he seeks.¹

For the stated reasons, it is hereby **ORDERED** as follows:

1. Meyers' evidentiary objections are **OVERRULED**, and his motions regarding additional proceedings or evidence on imminent danger are **DISMISSED** as moot;
2. The Clerk shall terminate as moot the following motions: ECF Nos. 74, 77, 78, and 83;
3. The Report and Recommendation, ECF No. 91, is **ACCEPTED** in its entirety; and
4. Meyers is **GRANTED** permission to proceed with this action without prepayment of the filing fee, pursuant to the imminent danger exception in 28 U.S.C. § 1915(g).

ENTER: November 6, 2018

/s/ James P. Jones
United States District Judge

¹ Meyers has also filed motions for summary judgment and numerous motions seeking preliminary injunctive relief, all of which I will address in a separate opinion.